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Attorneys for Defendant  
PATRICK DONAHOE

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

JESSE J. BOYKIN,

Plaintiff,

v.

PATRICK DONAHOE, United States  
Postmaster General,

Defendant.

No. C 10-2517 SBA

**STIPULATION AND ORDER FOR  
SHORTENED TIME ON  
DEFENDANT'S MOTION FOR LEAVE  
TO FILE FIRST AMENDED ANSWER**

Subject to the approval of this Court, and pursuant to Civil L.R. 6-2(a), the parties hereby stipulate to shorten the time for hearing on Defendant's Motion for Leave to File First Amended Answer (the "Motion"). The Motion is noticed for hearing on December 13, 2011, which was the earliest available hearing date for civil cases ending with an odd number, according to Judge Armstrong's scheduling information on the USDC website. That is after the last date for hearing

1 motions in this case, November 8, 2011, and is two weeks before pretrial preparation is due on  
2 December 27, 2011. (Doc. #32.)

3 Fact discovery in this case ends on September 7, 2011. Id. Defendant anticipates filing a  
4 motion for summary judgment as soon as possible after the close of fact discovery. Based on the  
5 current hearing date of December 13, 2011, defendant would not have a ruling on the Motion by  
6 the time it files its motion for summary judgment, nor would plaintiff have a ruling on the  
7 Motion by the time his opposition memo was due. Therefore, it could be inefficient for the  
8 parties and the Court because the summary judgment papers could include unnecessary  
9 discussion of the affirmative defenses at issue in the Motion. Additionally, the current hearing  
10 date of December 13, 2011, could complicate the parties' pretrial preparation due two weeks  
11 later, on December 27, 2011, because the parties would not know before the hearing whether  
12 defendant would be permitted to amend its answer and, accordingly, what affirmative defenses  
13 could be asserted at trial.

14 Accordingly, the parties stipulate to have the Motion heard on shortened time. The  
15 parties stipulate and request that the hearing date for the Motion be set for **September 13, 2011,**  
16 **at 1:00 p.m.** That hearing date would benefit the parties and the Court by being early enough so  
17 that the parties could have a ruling before defendant files its motion for summary judgment and  
18 plaintiff files his opposition thereto, and therefore the parties would know what arguments to  
19 include or not include for the Court's consideration. It would also benefit the parties' pretrial  
20 preparation by allowing for an earlier determination of what affirmative defenses could be  
21 asserted at trial.

22 There have been no previous time modifications in this case of any of the dates set in the  
23 Order for Pretrial Preparation (Doc. #32). There were previous time modifications for the initial  
24 case management conference and the mediation deadline as follows:

25 \* On plaintiff's motion (and before a summons had been issued for defendant), the  
26 Court on October 4, 2010, continued the date of the initial case management  
27 conference. (Doc. #13.)  
28

\* Pursuant to the parties' stipulation, the Court on December 13, 2010, continued the date of the initial case management conference. (Doc. #15.)

\* Pursuant to the parties' stipulation, the Court on May 31, 2011, extended the mediation deadline. (Doc. #38.)

By this stipulation and request to change the hearing date for the Motion, the parties do not request to, and do not anticipate that this requested time modification would, change any deadline set forth in the Court's Order for Pretrial Preparation (Doc. #32). The parties believe that the requested time modification would enable the parties to proceed more efficiently under the schedule set for this case in Doc. #32.

**IT IS SO STIPULATED.**

DATED: \_\_\_\_\_

By: \_\_\_\_\_  
JESSE J. BOYKIN  
Plaintiff *In Pro Per*

MELINDA HAAG  
United States Attorney

DATED: \_\_\_\_\_

By: \_\_\_\_\_  
NEILL T. TSENG  
Assistant United States Attorney  
Attorneys for Defendant

**IT IS HEREBY ORDERED THAT** the parties' stipulation to shorten time is GRANTED as modified: The hearing on Defendant's motion to amend its answer is scheduled to be heard on September 20, 2011 at 1:00 p.m. Plaintiff's opposition or statement of non-opposition shall be filed by no later than August 22, 2011, and Defendant's reply, if any, shall be filed by no later than August 29, 2011. Pursuant to Federal Rule of Civil Procedure 78(b) and Civil Local Rule 7-1(b), the Court, in its discretion, may resolve the motion without oral argument. The parties are advised to check the Court's website to determine whether a court appearance is required.

1 IT IS SO ORDERED.

2  
3 DATED: 8/11/11

  
HONORABLE SAUNDRA BROWN ARMSTRONG  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

BOYKIN et al,

Plaintiff,

v.

POTTER ET AL et al,

Defendant.

Case Number: CV10-02517 SBA

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on August 11, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Jesse J. Boykin  
745 Jackson Street  
Fairfield, CA 94533-5715

Dated: August 11, 2011

Richard W. Wieking, Clerk  
By: LISA R CLARK, Deputy Clerk